#

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO.4069 OF 2006

Mohamed Azim Abdul Qadeer
Sheikh and Anr. .. Applicants
Versus
State of Maharashtra .. Respondents

Mr.S.U.Marwadi for applicants
Mr.S.S.Pednekar, A.P.P. for State.

CORAM : S.C.DHARMADHIKARI, J.
DATE : 4th December 2006

P.C.

. Applicants are the father and son. They are arrayed as accused Nos. 1 and 2 in C.R.No.378 of 2006 registered with Bandra Police Station on 1st August 2006 alleging offences punishable under sections 307, 34 of I.P.C.

2. The wife of the second applicant and daughter in law of the first applicant, is the complainant. It is her case that marriage with

the second applicant could not be consumated and for some reason or the other, there were always disputes between them. Even, the in-laws were interfering. Under such circumstances on the relevant date, she was physically lifted and thrown out of the balcony and suffered injuries which required her hospitalisation for about a month and half.

3. Mr.Marwadi, learned Advocate for applicants states that upon her complaint, statements have been recorded. These statements clearly show that the complainant does not blame applicants for the incident. However, during the course of her hospitalisation on 21st July 2006 her statement was recorded and that is how for the first time she alleged that the accused physically lifted her and threw her out of window. She managed to survive. She stated that there is continuous harassment and ill-treatment and that is how the incident occured.

4. I have perused the application and the annexures thereto. I have also perused the affidavit filed by Police Sub-Inspector attached to the Bandra Police Station. The incident occured on 16th June 2006. The statements were recorded on 16th and 17th June 2006. My attention is also invited by Mr.Marwadi to the statement recorded on 18th June 2006 before S.E.M. where also she does not blame anybody for the incident.

5. In such circumstances, as to what prompted the S.E.M. to once again visit the hospital, seek permission of the concerned Doctors for her interrogation and thereafter record the statement on 21st July 2006, is not clear. The submission of Mr.Marwadi is that the father of complainant has on account of the matrimonial disputes taken upon himself the job of implicating the present applicants. It is submitted that the case that applicants threw complainant out of window when there are iron

grills fixed on the window is wholly suspicious and doubtful.

6. Having perused the above material all that is stated that applicants if enlarged on bail would threaten prosecution witnesses so also the complainant. She is now residing at Malad with her parents. Upon being questioned Mr.Marwadi states that applicants would not enter the limits of Malad Police Station.

7. In such circumstances, following order would meet the ends of justice.

i) The applicants (1) Mohamed Azim Qadeer Sheikh and (2) Rizwan Mohamed Asim Sheikh, arrested in connection with C.R.No.378 of 2006 registered with Bandra Police Station shall be enlarged on bail in the sum of Rs.10,000/- each with one or two local sureties in the like amount.

ii) The bail is granted subject to condition that the applicant will remain present before the Bandra Police Station, once a week on every Saturday between 5.00 p.m. and 7.00 p.m. till conclusion of the trial. Applicants shall not enter jurisdiction of Malad Police Station till conclusion of trial.

iii) The order of bail will be given effect only after the applicants furnishe to the investigating officer the details about their place of residence and address where they proposes to stay after they are enlarged on bail. The applicants will not change their residential address thereafter till the conclusion of trial without prior intimation to the Investigating officer.

iv) The bail is granted subject to condition that the applicants shall not

directly or indirectly, make any inducement or threat to any prosecution witnesses and shall not in any manner tamper with the prosecution evidence.

v) The applicasnt shall cooperate with the learned Trial Judge for expeditious disposal of the case. Any attempt by the applicants to delay the trial may be a ground for cancellation of bail.

vi) Any observation made in this order shall not be construed as any finding or any expression of opinion on the merits of the case at the time of trial.

vii) Application is disposed of in above terms.

viii) Parties to act on an

authenticated copy of this order.

(S.C.DHARMADHIKARI, J)